BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

and

RIVERSIDE UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2023040563

OAH CASE NUMBER 2023030599

OAH CASE NUMBER 2023050798

ORDER GRANTING STUDENT'S MOTION TO RECONSIDER OAH'S MAY 23, 2023 RULING DENYING CONSOLIDATION BUT REAFFIRMING THE RULING

MAY 23, 2023

On March 17, 2023, Riverside filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2023030599, Riverside's Case, naming Student. On April 17, 2023, Student filed a Request for Due Process Hearing in OAH Case Number 2023040563, Student's First Case, naming Riverside. On

April 21,2023, OAH consolidated Riverside's Case and Student's First Case, designated Student's First Case as the primary case, and adopted the timeline in Student's First Case as the timeline governing both cases.

On May 17, 2023, Student filed a Request for Due Process Hearing in OAH Case Number 2023050798, Student's Second Case, naming Riverside. Also on May 17, 2023, Student filed a motion to consolidate his Second Case with Riverside's Case and Student's First Case. The undersigned denied the motion on May 23, 2023. On May 25, 2023, Riverside's motion to reconsider that ruling was also denied.

Student filed a separate motion on May 25, 2023, to reconsider the consolidation ruling, asserting different grounds. Student contends that OAH should have granted consolidation to alleviate statute of limitations concerns occasioned by the last-day filing of his Second Case.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Student's grounds for reconsideration of the May 23, 2023 consolidation ruling were not clear when that ruling was made, so reconsideration will be granted.

Student's Second Case challenges an IEP offer made on May 18, 2021, and was filed on May 17, 2023. Student's argument for vacating the May 23, 2023 consolidation ruling is that he could not amend his original complaint in time to avoid the bar of the two-year statute of limitations because OAH might not have ruled on the motion to amend until after the statute of limitations had run on his Second Case. However, that concern was Student's own responsibility, as he waited until one day before the statute of limitations would have run to file him Second Case. There appears no reason why Student could not have moved to amend his complaint far earlier than he did, thus ensuring a ruling on the motion to amend well before May 17, 2023.

The considerations that affect a decision whether to consolidate cases do not change because of party-created difficulties with the statute of limitations. In any event, Student's May 17, 2023 filing was in time to toll the statute of limitations as to the May 18, 2021 IEP. It does not appear that Student's claim will be time-barred. Student is free to pursue his Second Case separately.

Accordingly, reconsideration is granted but the order denying the Second Motion to Consolidate is reaffirmed.

ORDER

1. Student's Motion to Reconsider the May 23,2023 ruling denying the Second Motion to Consolidate is granted, but the ruling at issue is reaffirmed.
2. The three matters shall proceed on the schedules already set for them. All current dates in the three matters are confirmed.

IT IS SO ORDERED.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings